

**REMARKS**

This application is amended in a manner to place it in condition for allowance at the time of the next Official Action.

**Status of the Claims**

Claims 1, 3, 6 and 13 are amended. Independent claims 1 and 13 are amended describe the third visoactive agent as "a compound" and the "icarin derivatives" in a manner consistent with dependent claim 3 and specification page 3, lines 10-14. Accordingly, claim 3 is amended to further limit claim 1. Claim 6 was amended to correct a misspelling.

Claim 14 is directed to a composition "consisting of" the same combination of visoactive agents as claim 1 in the forms recited in claim 4.

Claims 1-4, 6-10, 13 and 14 are pending.

Claims 3, 6-8, and 10 are withdrawn as being drawn to non-elected groups or species.

**Claim Rejections-35 USC §112**

Claims 1 and 13 were rejected under 35 U.S.C. §112, second paragraph, for being indefinite. This rejection is respectfully traversed for the reasons below.

The position of the Official Action was that "icarin derivatives" was unclear. Claims 1 and 13 are amended to

explicitly recite these derivatives, e.g., as described on specification page 3, lines 10-14.

Therefore, withdrawal of the rejection is respectfully requested.

**Claim Rejections-35 USC §103**

Claims 1, 2, 4, 9 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over DI PIERRO WO 02/098436 ("DI PIERRO") in view of BERTINI CURRI et al. US 5,176,919 ("BERTINI CURRI") and SMITH, III et al. US 2003/0069618 ("SMITH"). This rejection is respectfully traversed for the reasons given below.

DI PIERRO was offered for teaching a cellulite-treatment composition comprising a complex of escin/beta-siterol with phospholipids and a complex of *Gingko biloba* dimeric falvonoids with phospholipids. The Official Action acknowledged that DI PIERRO does not disclose visnadin.

BERTINI CURRI was offered for teaching a composition, which includes visnadin, for treating insufficient blood perfusion of the skin.

SMITH was offered for suggesting that treating insufficient blood perfusion should affect condition of cellulite.

However, the combination of DI PIERRO, BERTINI CURRI, and SMITH does not render obvious the claimed invention for at least the two reasons that follow:

I. The combination fails to suggest the unexpected results.

The invention described in independent claims 1 and 13 comprises a combination of vasoactive agents consisting of a particular group of vasoactive components. The composition of claim 14 consists of the combination of vasoactive agents recited in claim 1 in one of the forms recited in claim 1.

The Examiner's attention is respectfully directed to the Declaration Under Rule 132 filed on May 30, 2007. The declaration demonstrates the synergistic behavior of a combination of vasoactive ingredients encompassed by the independent claims, and specifically recited dependent claim 9:

- visnadin,
- *Ginkgo biloba*, dimeric flavones complexed with phospholipids and
- escin beta-sitosterol complexed with phospholipids.

That is, the effect achieved by this combination of ingredients was higher than the sum of the effects exerted by each single ingredient (in identical amounts).

Accordingly, even if the ingredients of the claimed composition were individually known from the teachings of DI PIERRO and BERTINI CURRI, as evidenced by SMITH, there was no recognition of the synergistic effect of their combination. Rather, DI PIERRO, suggests a synergistic effect achieved by a

different combination of components (e.g., as discussed on page 2, lines 2-11).

Thus, one of ordinary skill in the art would not have expected the synergistic activity when used in combination.

II. One would have been discouraged from making the combination.

DI PIERRO teaches a mixture of ingredients that produces a synergistic effect in the treatment of localized adiposities and cellulite (reduction of cutaneous fat deposits and "orange-peel" skin).

However, DI PIERRO discloses this synergistic effect is achieved using a composition different from the claimed invention.

Specifically, the synergistic composition according to DI PIERRO includes (as described at page 2, lines 2-11):

- escin/beta-sitosterol complexes with *phospholipids*,
  - *Gingko biloba* dimeric flavonoids complexes with phospholipids,
  - *Centella asiatica* triterpenes complexes with phospholipids,
- and
- ethyl ximeninate, and
  - *Coleus forskolii* extracts.

The compositions of independent claims 1 and 13 comprise a particular group of vasoactive agents, and the

composition of new claim 14 consists of a particular composition form and a particular combination of vasoactive agents. Ethyl ximeninate and *Coleus forskolii* extracts are not required in the claimed combinations, i.e., the claimed combination is consisting of a particular group of vasoactive agents.

Accordingly, in order to even approach the claimed invention, one would have been forced to exclude ethyl ximeninate and *Coleus forskolii* extracts, which would have rendered the composition of DI PIERRO unsatisfactory for the intended purpose of achieving the desired synergistic effect.

Thus, one of ordinary skill in the art would have been strongly discouraged from separately using the components of DI PIERRO composition, since one would have expected a loss of the synergistic effect.

Therefore, for at least the two reasons discussed above, the proposed combination fails to render obvious claims independent claims 1, 13 and 14 and dependent the dependent claims 2, 4 and 9, and withdrawal of the rejection is respectfully requested.

### **Conclusion**

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance

at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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